

REMARKS

Claims 1-24 remain pending in this application. In the Office Action mailed July 21, 2008, the Examiner took the following actions¹:

- (a) rejected claims 1-24 under 35 U.S.C. 101, as allegedly being directed to non-statutory subject matter;
- (b) rejected claim 8 under 35 U.S.C. 112 due to allegedly insufficient antecedent basis in claim 7; and
- (c) rejected claims 1-24 under 35 U.S.C. 102(e) as allegedly being anticipated by Wilkinson et al (US Patent No. 7,016,936, "*Wilkinson*").

Claims 1, 7-9, and 17-24 have been amended.² No new matter is included in these amendments.

(a) Rejection of claims 1-24 under 35 U.S.C. 101

Claims 1-24 have been rejected under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter. Although Applicant maintains that the claims as filed fall squarely within the scope of section 101, Applicant has amended the independent claims and claims depending from claim 17 in order to conform to current U.S.P.T.O. practice and to advance prosecution.

The Office Action alleged that claims 1, 9, and 17 "recite a method for gathering and processing data without creating a tangible result." Office Action, p. 2. Applicant

¹ The Office Action contains a number of statements reflecting characterizations of the related art and claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

² Claims were amended solely to expedite prosecution. Applicant preserves the right to pursue the original subject matter in subsequent applications.

respectfully disagrees with the Office Action. According to the Federal Circuit, a method is patentable if it is “tied to a particular apparatus or . . . operated to change materials to a ‘different state or thing.’” *In re Comiskey*, 499 F.3d 1365, 1376 (Fed. Cir. 2007).

Claim 1 is tied to particular devices, such as a plurality of communication channels and a central, channel-independent processing engine. Therefore, Applicant submits that claim 1, and its dependent claims 2-8, recite statutory subject matter. Regarding claims 9 and 17, Applicant notes that these claims recite a computer program stored on a computer readable medium and a computer-implemented system for optimizing customer interactions, respectively. Therefore, these claims, and those depending from therefrom recite statutory subject matter. *See In re Comiskey*, 499 F.3d at 1379-1380.

Since claims 1-24 all recite statutory subject matter, the section 101 rejection should be withdrawn.

(b) Rejection of claim 8 under 35 U.S.C. 112

Claim 8 has been rejected because the Examiner alleged that it did not contain sufficient antecedent basis from claim 7, particularly with regard to the step of “leveraging insight” from analytical models. Claim 7 has been amended to resolve this issue. As amended, claim 7 provides sufficient antecedent basis for claim 8. As a result, the section 112 rejection should be withdrawn.

(c) Rejection of claims 1-24 under 35 U.S.C. 102(e)

Claims 1-24 have been rejected as being anticipated by *Wilkinson*. Based on the foregoing amendments and the arguments set forth during the October 16, 2008 Interview, Applicant respectfully traverses this rejection.

In order to anticipate amended claims 1, 9, and 17, the *Wilkinson* reference must disclose each and every element of those claims. See M.P.E.P. 2131. But, as Applicant argues below, *Wilkinson* does not anticipate claims 1, 9, and 17 because it fails to disclose several elements of those claims, as amended.

The Office Action summarized the pending claims by grouping together independent claims 1, 9, and 17. Amended claims 1, 9, and 17 each require “different types of communication channels” in combination with “a central, channel-independent processing engine,” among other things. *Wilkinson* fails to teach or suggest at least these elements as recited in claims 1, 9, and 17.

The Office Action cited *Wilkinson* as teaching “choosing at least one treatment for processing the customer interaction using a central processing engine that is consistent for the plurality of communication channels.” Office Action at p. 4. However, the cited portion only teaches that “an interaction motivation plan” can include “multiple constituent interaction plans” (column 5, lines 53-55). Neither this cited portion nor any other portion of *Wilkinson* teaches the limitation of using “a central, channel-independent processing engine.” Paragraph 79 of the present application describes an exemplary benefit of this feature, that “rules can be centrally stored ... and maintained.” This helps “to deliver insight driven sales, service, and marketing consistently across contact channels.” *Id.*

Since *Wilkinson* does not teach using a central, channel-independent processing engine for a plurality of different types of communication channels, the rejection of claims 1, 9, and 17 under 35 U.S.C. 102(e) should be withdrawn.

The Examiner rejected claims 2-8, 10-16, and 18-24 based on *Wilkinson* as well.

Since these are all dependent claims that incorporate the individual claim elements discussed above, these dependent claims all recite claim elements not disclosed in *Wilkinson*. Accordingly, these dependent claims are not anticipated, and the rejection of claims 2-8, 10-16, and 18-24 under 35 U.S.C. 102(e) should be withdrawn at least for the reasons given above with respect to claims 1, 9, and 17.


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 21, 2008

By: 
John S. Sieman
Reg. No. 61,064
(202) 408-4000

1680663v1